

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

UNITED STATES OF AMERICA	(	3:04-CR-283-D
Government,	(	
	(	
VERSUS	(	DALLAS, TEXAS
	(	
	(	
THOMAS ALBERT JONES	(	
Defendant.	(	March 18, 2005

TRANSCRIPT OF SENTENCING  
BEFORE THE HONORABLE SIDNEY A. FITZWATER  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE GOVERNMENT: PAUL YANOWITCH  
UNITED STATES DEPARTMENT OF JUSTICE  
NORTHERN DISTRICT OF TEXAS  
U. S. Courthouse, Third Floor  
Dallas, Texas 75242  
214/659-8600

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Proceedings reported by mechanical stenography,  
transcript produced by computer.

1 Sentencing - March 18, 2005

2 P R O C E E D I N G S

3 THE COURT: United States versus Thomas Albert  
4 Jones for sentencing.

5 MR. GOLDMAN: Good morning, Your Honor.

6 THE COURT: Mr. Goldman.

7 This is United States versus Thomas Albert Jones for  
8 sentencing.

9 The court has received in this matter the presentence  
10 report, the government's statement regarding the presentence  
11 report, the government's motion for an additional one level  
12 decrease for acceptance of responsibility, the defendant's  
13 corrections and objections to the presentence report, the  
14 probation officer's addendum, and the government's response  
15 to the addendum.

16 Mr. Goldman, are there any other written materials that  
17 the court should have received but has not received?

18 MR. GOLDMAN: There are not, Your Honor.

19 THE COURT: Have you had sufficient time to read  
20 and discuss the presentence report with your client?

21 MR. GOLDMAN: Yes, sir.

22 THE COURT: Mr. Jones, have you had sufficient time  
23 to read and discuss the presentence report with your lawyer?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Mr. Goldman and Mr. Yanowitch, it

1 appears that the objection concerning the two level increase  
2 on which the government relies is not something that affects  
3 sentencing, due to the statutory minimum, so it is not the  
4 court's intention to rule on that objection.

5 Mr. Goldman, are there any other objections that have  
6 not been resolved and as to which you would like rulings at  
7 this time?

8 MR. GOLDMAN: There are not, Your Honor.

9 THE COURT: At this time then I'm ready to hear  
10 from you and your client before I pass sentence.

11 MR. GOLDMAN: Your Honor, I would like to have Mr.  
12 Jones address the court first, please.

13 THE COURT: Mr. Jones, you have the right to  
14 address me personally before I pass sentence upon you.

15 Would you like to say anything on your behalf at this  
16 time?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Mr. Jones, you're not required to say  
19 anything, but because the right of a defendant to speak to  
20 the judge before he is sentenced is considered such a vital  
21 right, I am required to make certain on the record that you  
22 understand that right and that you are intentionally choosing  
23 not to say anything.

24 Do you understand your right to address the court at  
25 this time?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Understanding that right, do you wish  
3 to say anything before I sentence you?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: All right. Mr. Goldman, are you  
6 satisfied your client understands his right of allocution?

7 MR. GOLDMAN: I am, Your Honor.

8 THE COURT: At this time then I'll hear from you,  
9 counsel.

10 MR. GOLDMAN: Thank you, Your Honor.

11 Your Honor, as the court notes with respect to this  
12 case, there is a statutory minimum of 60 months in this case  
13 and it trumps the guidelines, which I believe were 33 to 41  
14 months in this case.

15 In looking at Mr. Jones' criminal history, which is  
16 found on page 11 and page 12, specifically paragraphs 44 and  
17 45, there was an offense that occurred when he was 18 years  
18 old and there was another offense that occurred when he was  
19 26 years old. Save for those two minor offenses, Your Honor,  
20 Mr. Jones has led a crime-free life, and now he faces a  
21 significant amount of time before the court for conduct which  
22 I know he has expressed contrition to me for committing. And  
23 I would hope this court would impose the minimum in this  
24 case. I note that the statutory minimum calls for 60 months,  
25 although there is no end in terms what the court could

1 impose.

2 I would ask this court to impose the statutory minimum  
3 and recommend two things.

4 One, that Mr. Jones be designated to the federal  
5 correctional institution at Butner.

6 Two, that he be allowed to participate in the 500 hour  
7 comprehensive drug treatment program.

8 Paragraph 45 indicates that he has a driving while  
9 intoxicated conviction and it also appears to me that in the  
10 presentence report there is an indication in paragraph 59,  
11 60, 61, that he was abusing substances, and abusing  
12 substances when he committed this offense, so I think that  
13 may have played a part in his conduct in this case.

14 And I would ask the court to make those two  
15 recommendations.

16 Thank you, Your Honor.

17 THE COURT: Thank you, counsel.

18 Does the government wish to be heard on this matter?

19 MR. YANOWITCH: Your Honor, we have no objection to  
20 those recommendations.

21 THE COURT: And does the government wish to be  
22 heard or to present any victim, in view of the nature of the  
23 offense?

24 MR. YANOWITCH: No, Your Honor.

25 THE COURT: Counsel, do you know of any reason why

1 a sentence cannot lawfully be imposed at this time?

2 MR. GOLDMAN: I do not, Your Honor.

3 THE COURT: Mr. Jones, are you ready for me to pass  
4 sentence upon you?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: The court accepts the plea agreement in  
7 this case. And in this case it will impose a sentence of 60  
8 months.

9 In determining the sentence in this case, I have  
10 considered all the factors set out in Title 18, United States  
11 Code, Section 3553(a)(1) through (7), inclusive.

12 I am imposing a sentence that is sufficient, but not  
13 greater than necessary, to comply with the purposes set forth  
14 in section 3553(a)(2).

15 I am imposing this particular sentence to reflect the  
16 seriousness of the offense, to promote respect for the law,  
17 to provide just punishment for the offense, to afford  
18 adequate deterrents to criminal conduct, to protect the  
19 public from further crimes of the defendant, and to provide  
20 the defendant with needed medical care in the most effective  
21 manner.

22 I have considered the guideline range and decided to  
23 sentence the defendant within the guideline range.

24 In this case the guideline range is 60 months because of  
25 the statutory minimum.

1           Accordingly, on count 4 of the indictment it is adjudged  
2           that the defendant is hereby committed to the custody of the  
3           Bureau of Prisons for a term of 60 months.

4           It is ordered that the defendant pay a mandatory special  
5           assessment of \$100.

6           Restitution is not applicable.

7           The court is not imposing a fine, due to the defendant's  
8           inability to pay a fine.

9           It is ordered that the defendant serve a period of  
10          supervised release of 5 years.

11          While on supervised release, the defendant shall not  
12          commit another federal, state, or local crime, and shall not  
13          illegally possess a controlled substance.

14          The defendant shall refrain from any unlawful use of a  
15          controlled substance.

16          The defendant shall submit to one drug test within 15  
17          days of release from imprisonment, and at least two periodic  
18          drug tests thereafter, as directed by the United States  
19          Probation Officer.

20          While on supervised release, the defendant shall also  
21          comply with the standard terms and conditions recommended by  
22          the United States Sentencing Commission and adopted by this  
23          court on its judgment form.

24          The defendant shall also comply with the following terms  
25          and conditions.

1           Number 1, the defendant shall not possess a firearm, as  
2 defined in Title 18, United States Code, Section 921.

3           Number 2, the defendant shall report in person to the  
4 probation office in the district to which the defendant is  
5 released, within 72 hours of release from the custody of the  
6 Bureau of Prisons.

7           Number 3, the defendant shall participate in a program  
8 approved by the United States Probation Office for treatment  
9 of narcotic, drug, or alcohol dependency, which will include  
10 testing for the detection of substance use or abuse.

11           The defendant shall abstain from the use of alcohol  
12 and/or all other intoxicants during and after completion of  
13 treatment.

14           The defendant shall contribute to the cost of services  
15 rendered at a rate of at least \$25 per month.

16           Number 4, the defendant shall participate in sex  
17 offender treatment services, as directed by the United States  
18 Probation Officer, until successfully discharged.

19           These services may include psychophysiological testing  
20 to monitor the defendant's compliance, treatment progress,  
21 and risk to the community.

22           The defendant shall contribute to the cost of services  
23 rendered at a rate of at least \$25 per month.

24           Number 5, the defendant shall not access or loiter near  
25 school grounds, parks, arcades, playgrounds, amusement parks



1 or other places where children under the age of 18 may  
2 frequently congregate, unless approved in advance by the  
3 United States Probation Officer.

4 Number 6, the defendant shall neither possess nor have  
5 under his control any pornographic, sexually oriented or  
6 sexually stimulating materials, including visual, auditory,  
7 telephonic, or electronic media, computer programs or  
8 services.

9 The defendant shall not frequent any place where such  
10 material or entertainment is available.

11 The defendant shall not use any sex-related telephone  
12 numbers.

13 Number 7, the defendant shall neither possess, have  
14 under his control, or use any computer or any other  
15 electronic device used for the transmission, receipt, or  
16 distribution of pornographic, sexually oriented, or sexually  
17 stimulated materials, including visual, auditory, telephonic,  
18 or had electronic media, computer programs or services.

19 The defendant shall not patronize any place where such  
20 material or such computer or electronic devices are  
21 available.

22 Number 8, the defendant shall register with state and  
23 local law enforcement as directed by the United States  
24 Probation Officer in any state where the defendant resides,  
25 is employed, carries on a vocation, or is a student.

1 The defendant shall provide all information required in  
2 accordance with state registration guidelines.

3 Initial registration shall be completed within 7  
4 calendar days of release from confinement.

5 The defendant shall provide written verification of  
6 registration to the United States Probation Officer within  
7 three business days following registration.

8 This registration shall be renewed annually and each  
9 time a change of residence occurs.

10 Number 9, the defendant shall neither seek nor maintain  
11 employment or volunteer work at any location and/or activity  
12 where children under the age of 18 would congregate, without  
13 prior permission of the United States Probation Officer.

14 Number 10, the defendant shall not date or befriend  
15 anyone who has children under the age of 18, unless approved  
16 in advance by the United States Probation Officer.

17 Number 11, the defendant shall obtain approval of the  
18 United States Probation Officer prior to a change in  
19 residence or living situation.

20 Number 12, the defendant shall submit a blood sample, as  
21 directed by the United States Probation Officer, to be  
22 included in the state sex offender DNA databank.

23 The defendant shall pay for the cost of such services.

24 Does the government have a motion to dismiss?

25 MR. YANOWITCH: Yes, Your Honor. At this time

1 pursuant to the plea agreement we would move to dismiss  
2 counts 1, 2, 3, 5, and 6 of the indictment.

3 THE COURT: On the motion of the government it is  
4 ordered that counts 1, 2, 3, 5, and 6 of the indictment are  
5 dismissed as to this defendant only.

6 The court recommends to the Bureau of Prisons that the  
7 defendant be assigned to FCI Butner, B-U-T-N-E-R, North  
8 Carolina, if eligible.

9 The court also recommends to the Bureau of Prisons that  
10 the defendant be allowed to participate in the institutional  
11 residential drug abuse program, if eligible, and be assigned  
12 to serve his sentence at a facility where he can participate  
13 in the program.

14 Mr. Goldman, do you have anything further at this time?

15 MR. GOLDMAN: I do not, Your Honor.

16 THE COURT: At this time I remand the defendant to  
17 the custody of the United States Marshal for transporting  
18 directly to the designated institution.

19 Counsel, if you have nothing further, you're excused.

20 MR. GOLDMAN: Thank you, Your Honor.

21 MR. YANOWITCH: Thank you, Your Honor.

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<p>&lt; Dates &gt;  18 may 8: 24  June, 2010.  13: 8  March 18, 2005  1: 11, 2: 1  \$100. 7: 3  \$25 8: 13, 8: 21  (7) 6: 10</p> <p>&lt; 0 &gt;  04-CR-283-D 1: 4</p> <p>&lt; 1 &gt;  1 7: 24, 10: 24,  11: 1  10 10: 11  11 4: 16, 10: 14  1100 1: 34  12 4: 16, 10: 17  15 7: 14  1535 1: 34  17th 13: 8  18 4: 17, 6: 9,  7: 25, 10: 9,  10: 12</p> <p>&lt; 2 &gt;  2 8: 1, 10: 24,  11: 1  214. 662. 1557  1: 36  214/659-8600  1: 22  214/767-2746  1: 30  26 4: 18</p> <p>&lt; 3 &gt;  3 1: 4, 8: 5,  10: 24, 11: 1  33 4: 13  3553(a)(1 6: 10  3553(a)(2 6: 13</p>	<p>&lt; 4 &gt;  4 6: 24, 8: 14  41 4: 13  44 4: 16  45 4: 16, 5: 7</p> <p>&lt; 5 &gt;  5 7: 8, 8: 22,  10: 24, 11: 1  500 5: 5  525 1: 27  59 5: 9</p> <p>&lt; 6 &gt;  6 9: 2, 10: 24,  11: 1  60 4: 12, 4: 24,  5: 9, 6: 6, 6: 22,  7: 1  61 5: 10  629 1: 28</p> <p>&lt; 7 &gt;  7 9: 11, 9: 25  72 8: 3  75202 1: 29  75242 1: 21,  1: 35</p> <p>&lt; 8 &gt;  8 9: 19</p> <p>&lt; 9 &gt;  9 10: 7  921. 7: 25</p> <p>&lt; A &gt;  abstain 8: 9  abuse 8: 8, 11: 8  abusing 5: 10  acceptance 2: 12  accepts 6: 5  access 8: 22  accordance 9: 24</p>	<p>Accordi ngl y  6: 24  acti vi ty 10: 8  addendum 2: 14,  2: 15  addi ti onal 2: 11  address 3: 12,  3: 13, 3: 24  adequate 6: 16  adjudged 6: 24  adopted 7: 20  advance 8: 25,  10: 13  affects 3: 2  afford 6: 16  age 8: 24, 10: 9,  10: 12  agreement 6: 5,  10: 23  Albert 1: 10,  2: 3, 2: 7  alcohol 8: 7,  8: 9  al locuti on 4: 6  allowed 5: 5,  11: 7  al though 4: 25  AMERI CA 1: 4  amount 4: 21  amusement 8: 23  and/or 8: 10,  10: 8  annual ly 10: 5  appears 3: 1,  5: 8  appl i cable 7: 4  approval 10: 14  approved 8: 6,  8: 25, 10: 12  arcades 8: 23  assessment 7: 3  assi gned 11: 4,  11: 8  audi tory 9: 4,  9: 15  avai l abl e 9: 8,  9: 18</p> <p>&lt; B &gt;</p>	<p>B-U-T-N-E-R  11: 4  befri end 10: 11  behalf 3: 15  bel i eve 4: 13  blood 10: 17  Bureau 7: 1,  8: 4, 11: 3, 11: 6  business 10: 4  Butner 5: 4,  11: 4</p> <p>&lt; C &gt;  calendar 9: 25  calls 4: 24  care 6: 19  Carolina 11: 5  carries 9: 22  case 4: 11,  4: 12, 4: 14,  4: 23, 5: 12,  6: 6, 6: 8, 6: 22  certain 3: 21  certi fy 13: 2,  13: 5  change 10: 6,  10: 15  child ren 8: 24,  10: 9, 10: 12  choosi ng 3: 22  cli ent 2: 20,  3: 10, 4: 6  Code 6: 10, 7: 25  Commerce 1: 34  Commi ssi on 7: 20  commi t 7: 10  commi tted 5: 11,  6: 25  commi tti ng 4: 22  communi ty 8: 19  comple ted 9: 25  comple ti on 8: 10  compli ance 8: 18  comply 6: 12,  7: 19, 7: 22,  13: 5  comprehen si ve  5: 6  computer 1: 39,</p>
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C E R T I F I C A T I O N

I, PAMELA J. WILSON, CSR, certify that the foregoing is a transcript from the record of the proceedings in the foregoing entitled matter.

I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

This the 9th day of July, 2010.

s/Pamela J. Wilson  
PAMELA J. WILSON, RMR, CRR  
Official Court Reporter  
The Northern District of Texas  
Dallas Division